

Appl. No. 09/613,423
Amdt. dated October 20, 2004
Reply to Office action of August 5, 2004

Remarks:

Claims 1-23 are pending in this application. Claim 24 has been cancelled, without prejudice, by way of this amendment.

Claims 3, 4, 5 and 16 have been amended to address the Examiner's concern with regard to missing antecedent basis.

The Examiner has rejected claims 1, 6, 7, 12-15 and 22 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,205,557 to Chong (hereinafter "Chong"). The applicant respectfully disagrees.

Claim 1 requires that a call server (say, a standby call server) send a request, to a media gateway, for information regarding an active media connection. In contrast, the active call server in Chong sends call information to the standby call server, unprompted. Furthermore, the call information relates to a call in the call setup stage. As such, the call is not yet active, as is required by claim 1. Advantageously, the performance requirements of the active call server, necessary to maintain a standby call server, are reduced relative to the solution (e.g., Chong) wherein the active call server passes information to the standby call server.

In view of the forgoing, applicant submits that claim 1 is not anticipated by Chong and respectfully requests that the Examiner's rejection on that basis be withdrawn. Furthermore, it is submitted that claims 2-11, which depend, either directly or indirectly, from claim 1, are not anticipated by Natarajan and are, therefore, patentable.

Additionally, since claims 12 and 13 claim a call server operable to perform the elements of claim 1 and a computer readable medium for adapting a call server to be operable to perform the elements of claim 1, applicant submits that claims 12 and 13 are not anticipated by Chong and respectfully requests that the Examiner's rejection on that basis be withdrawn.

Claim 12 has been amended to correct a typographical error (a duplicated word).

Ampl. No. 09/613,423
Amdt. dated October 20, 2004
Reply to Office action of August 5, 2004

Claim 14 requires that a call server (say, a standby call server), responsive to receiving an indication of a failure of a primary call server, send a request, to a media gateway, for information regarding an active media connection. In contrast, it is submitted that, in Chong, it assumed that the standby call server, responsive to receiving an indication of a failure of the active call server during call setup, has all the information necessary to complete establishing the call (see col. 5, lines 20-32) and, therefore, would not need to send a request as required by claim 14.

In view of the forgoing, applicant submits that claim 14 is not anticipated by Chong and respectfully requests that the Examiner's rejection on that basis be withdrawn.

Claim 15 relates to the activity of a media gateway, in particular, to the provision of a record of an active media connection to a call server, responsive to a request for such a record from the call server. As has been discussed above, it is submitted that the call servers of Chong do not need to request information from the media gateway and, therefore, Chong does not suggest or disclose the provision of such records, as claimed in claim 15.

In view of the forgoing, applicant submits that claim 15 is not anticipated by Chong and respectfully requests that the Examiner's rejection on that basis be withdrawn.

Additionally, since claim 22 claims a computer readable medium for adapting a media gateway to be operable to perform the elements of claim 15, applicant submits that claim 22 is not anticipated by Chong and respectfully requests that the Examiner's rejection on that basis be withdrawn.

The Examiner has also rejected claims 2-5 and 16 under 35 U.S.C. 103(a) as being obvious with regard to Chong in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made. The applicant respectfully disagrees.

In order to properly reject the claims on the basis of obviousness, the Examiner must establish (1) the presence of all the claimed elements in the prior art and (2) a motivation in the prior art to combine or modify the references at the time the invention was

Appl. No. 09/613,423
Amdt. dated October 20, 2004
Reply to Office action of August 5, 2004

made. It is submitted that the Examiner has failed to satisfy both of these conditions.

It has been presented hereinbefore in conjunction with the discussion of the rejection of claim 1 that Chong does not suggest or disclose "sending a request, to a media gateway, for information regarding said active media connection". Claim 2 depends from claim 1 and provides an additional limitation of formulating the request "using a network management protocol". Claim 3 depends from claim 2 and requires that the network management protocol be the Simple Network Management Protocol. Claim 4 depends from claim 2 and requires that the network management protocol be the Media Gateway Control Protocol. Claim 5 depends from claim 2 and requires that the network management protocol be the Session Initiation Protocol. It is submitted that, since, as is submitted, Chong does not disclose the sending of a request, the nature of the request, as specified in claims 2-5 would not have been obvious in view of Chong or the state of the art.

As such, it is submitted that all the elements claimed in claims 2, 3, 4 and 5 are not found in Chong or the state of the art. It is therefore submitted that 2, 3, 4 and 5 are patentable over the combination of Chong and the state of the art.

It has been presented hereinbefore in conjunction with the discussion of the rejection of claim 15 that Chong does not suggest or disclose "receiving, from a call server, a request for information regarding said active media connection". Claim 16 depends from claim 15 and provides an additional limitation of receiving the request "using the Simple Network Management Protocol."

It is submitted that, since, as is submitted, Chong does not disclose the receipt of a request for information regarding an active media connection, the manner in which the request is received, as specified in claim 16, would not have been obvious in view of Chong or the state of the art.

As such, it is submitted that all the elements claimed in claim 16 are not found in Chong or the state of the art. It is therefore submitted that 16 is patentable over the combination of Chong and the state of the art.

The Examiner has also rejected claims 8-11 and 17-20 under 35 U.S.C. 103(a)

Appl. No. 09/613,423
Amdt. dated October 20, 2004
Reply to Office action of August 5, 2004

as being obvious with regard to Chong in view of U.S. Patent Number 6,377,570 to Vaziri (hereinafter "Vaziri"). The applicant respectfully disagrees.

It has been presented hereinbefore in conjunction with the discussion of the rejection of claim 1 that Chong does not suggest or disclose "sending a request, to a media gateway, for information regarding said active media connection". Claims 8-11 depend from claim 1 and indicate the nature of the information received responsive to the request. It has been presented hereinbefore in conjunction with the discussion of the rejection of claim 15 that Chong does not suggest or disclose "receiving, from a call server, a request for information regarding said active media connection". Claims 17-20 depend from claim 15 and indicate the nature of the information requested. It is further submitted that Vaziri does not suggest or disclose "sending a request, to a media gateway, for information regarding said active media connection". Indeed, Vaziri appears to have been cited merely to illustrate that identification of a device originating an active media connection, duration of time an active media connection has been active, a coding algorithm used for an active media connection and Quality of Service setting associated with said active media connection may be included in information describing a media connection for billing purposes.

As such, it is submitted that all the elements claimed in claims 8-11 and 17-20 are not found in Chong, Vaziri or a combination of Chong and Vaziri. It is therefore submitted that claims 8-11 and 17-20 are patentable over the combination of Chong and Vaziri.

The Examiner has also rejected claims 21 and 23 under 35 U.S.C. 103(a) as being obvious with regard to U.S. Patent No. 6,724,747 to Arango (hereinafter "Arango") in view of Chong. The applicant respectfully disagrees.

The Examiner admits that Arango is missing some of the functionality of claims 21 and 23 by being silent about sending from the media gateway to the backup call server information regarding an active media connection terminated at a primary server; and receiving the information at the backup call server. The Examiner then cites Chong to provide the missing functionality. However, it is submitted, relative to claim 21, that Chong is also silent about sending from the media gateway to the backup call server information regarding an active media connection terminated at a primary server. In particular, Chong is silent about

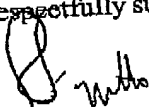
Appl. No. 09/613,423
Amdt. dated October 20, 2004
Reply to Office action of August 5, 2004

sending information regarding an active media connection. It is submitted that the media connections about which Chong discloses the transmission of information are in setup stage, and are, therefore, not yet active. It is further submitted, relative to claim 23, that Chong is silent, as discussed hereinbefore, about a backup call server sending a request for "information regarding an active media connection" to a media gateway.

As such, it is submitted that all the elements claimed in claims 21 and 23 are not found in Arango, Chong or a combination of Arango and Chong. It is therefore submitted that claims 21 and 23 are patentable over the combination of Arango and Chong.

Favorable reconsideration and allowance of claims 1-23 of the application is earnestly solicited.

Respectfully submitted,


Ronald D. Faggetter
Registration No. 33,345
SMART & BIGGAR
438 University Avenue
Suite 1500, Box 111
Toronto, Canada M5G 2K8

Telephone: (416) 593-5514
Facsimile: (416) 591-1690

October 20, 2004
RDF/CCC/jj1
92118-54